

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Criminal Action

No. 19-134-2

TERRY SUGGS, JR.,

Defendant.

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Transcript of SUPPRESSION HEARING proceedings recorded on Wednesday, May 5, 2021, in the United States District Court, 700 Grant Street, Pittsburgh, Pennsylvania, before The Hon. Joy Flowers Conti, United States District Judge

APPEARANCES:

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Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription

P R O C E E D I N G S

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(11:10 a.m.; in open court, Defendant present with counsel:)

THE COURT: It's nice to be back in person and to see everybody. So at this time we are here for the purpose of a suppression hearing in the United States versus Terry Suggs, Jr., Criminal No. 19-134. Will counsel for the Government please enter your appearance?

MS. SILINSKI: Yes, Your Honor. Assistant United States Attorney Rebecca Silinski, appearing on behalf of the Government.

THE COURT: Will counsel for the Defendant please enter your appearance?

MR. BILLS: George Bills for Terry Suggs, and co-counsel will introduce himself.

MR. SARNA: Good morning, Your Honor. May it please the Court, Samir Sarna also on behalf of Mr. Suggs today.

THE COURT: Okay.

MR. BILLS: Because we have two counsel here and there are two actually separate motions, one is a suppression, the second is the Franks v. Delaware, I will be doing the lead cross on the Detective. And I will handle all of the questioning --

1 THE COURT: On the suppression -- I mean on the --

2 MR. BILLS: -- on the arrest, and Mr. Sarna will

3 then handle however he wishes on the Franks v. Delaware with

4 the Court's permission.

5 THE COURT: That's fine.

6 MR. BILLS: Thank you.

7 THE COURT: Is there any objection?

8 MS. SILINSKI: No, Your Honor. I think initially

9 though Mr. Sarna will need to establish that there is an

10 actual basis for us to go into --

11 THE COURT: Yes. He'll have to do that.

12 MS. SILINSKI: Sure. Correct.

13 THE COURT: He'll make those arguments.

14 MS. SILINSKI: With that, Your Honor, no.

15 THE COURT: I just want to be clear for the record

16 that the court is now open. The public is able to come in

17 here. You know, they do have to wear a mask and be checked

18 for their temperature and that type of thing. But we are

19 open. This is an open hearing.

20 And at this time then I just wanted to review with

21 the parties the general law that the Court will be applying

22 in this case and note the arguments that have been raised by

23 the Defendant.

24 The way the Court handles these kinds of

25 proceedings when we have an evidentiary hearing, and one is

1 required here because of the nature of the suppression  
2 claims, the issues will be dealt with by having a transcript  
3 ordered at the joint cost of the parties. And then the  
4 parties will simultaneously file proposed findings of fact  
5 and conclusions of law, and we'll just have to determine  
6 what's the appropriate time for that, how much time does  
7 counsel need after they receive the transcript to do that.

8           So I don't know that we'll need any concluding  
9 arguments on the matter. If there's some preliminary  
10 argument that the parties wish to make, you may do so, but  
11 I'm going to just first review the general legal issues that  
12 are involved.

13           At suppression hearing the Court may rely on  
14 hearsay and other evidence even though the evidence would not  
15 be admissible in trial. United States versus Raddatz, 447  
16 U.S. 667, 1980.

17           The issues raised here with respect to the  
18 suppression involve warrantless searches. Typically the  
19 burden on the suppression hearing would initially be on a  
20 Defendant who's seeking to suppress the evidence. United  
21 States versus Johnson, 63 F.3d 242, Third Circuit 1995.

22           Here, the defense has raised the issue of  
23 warrantless searches, both of a car, a vehicle, and the  
24 arrest of the Defendant. So there's two warrantless -- one  
25 was a search and one was the arrest. So I think the

1 Government doesn't dispute that.

2 MS. SILINSKI: Your Honor, I would just note that  
3 there was a warrant for the vehicles to be searched. The  
4 vehicle --

5 THE COURT: Now, the question is of the seizure of  
6 the vehicle --

7 MS. SILINSKI: Yes, ma'am.

8 THE COURT: -- and whether there was a warrant for  
9 that.

10 MS. SILINSKI: Yes, ma'am. That's correct.

11 THE COURT: And there was an actual search. There  
12 was a warrant, and that's some of the issues for the Franks  
13 hearing.

14 MS. SILINSKI: Yes, ma'am.

15 THE COURT: So what we're concerned about is the  
16 initial seizure of the vehicle, the towing of the vehicle.  
17 So that was without a warrant.

18 MS. SILINSKI: Correct. Yes, Your Honor.

19 THE COURT: And his arrest, the Defendant's arrest,  
20 was without a warrant.

21 MR. SILINSKI: Correct, Your Honor.

22 THE COURT: So at least as to those two aspects,  
23 the burden shifts to the Government. And the Government's  
24 burden at this time when you're dealing with a warrantless  
25 search arises under the Fourth Amendment.

1           The Supreme Court in *Horton versus California*, 496  
2 U.S. 128, 1990, found that warrantless searches are  
3 presumptively unreasonable, subject to certain specifically  
4 established and well-delineated exceptions. In the context  
5 of a motion to suppress evidence obtained in connection with  
6 a warrantless search, the Government bears the burden to  
7 prove by a preponderance of the evidence that the disputed  
8 search falls within one of the recognized exceptions to the  
9 warrant requirement; *United States versus Johnson*, 65 F.3d  
10 242, Third Circuit, 1995.

11           Any evidence obtained in connection with an illegal  
12 search must be suppressed as fruit of the poisonous tree,  
13 *United States versus Brown*, 448 F.3d 239, Third Circuit,  
14 2006.

15           Here, when you have the arrest of an individual,  
16 the issues are going to be whether there was probable cause  
17 for the arrest. With respect to the exceptions, the Court  
18 understands there might be at least two, maybe more -- the  
19 Government will have to articulate that -- exceptions, and  
20 one would be a search incident to arrest exception and the  
21 automobile exception. I don't know if there's any others  
22 that the Government is articulating at this time.

23           But there's really -- as I said, on the motion to  
24 suppress evidence, the issues raised by the Defendant are,  
25 first, that his arrest on February 25, 2019, on Grant Street

1 in North Braddock, Pennsylvania, was without probable cause.  
2 The second issue is that law enforcement did not have  
3 probable cause to seize the Subaru from Grant Street  
4 following his arrest. So those are the two issues raised in  
5 the suppression.

6 With respect to a Franks hearing, the defense is  
7 arguing that law enforcement recklessly omitted material  
8 information from the affidavit of probable cause upon which  
9 it relied to obtain a search warrant for the Subaru.

10 Under Franks versus Delaware, 438 U.S. 154, 1978,  
11 the Supreme Court held that when a warrant is obtained based  
12 upon a false statement made in a supporting affidavit, the  
13 fruits of the search warrant must be excluded if the  
14 remaining material following the excision of falsity is  
15 independently insufficient to support a finding of probable  
16 cause.

17 In United States versus Frost, 999 F.2d 737, Third  
18 Circuit, 1993, the Court of Appeals held that if the falsity  
19 is based upon an omission, which is the allegation in this  
20 case, rather than a misstatement of facts, the Court must  
21 remove the falsehood by supplying the omitted information to  
22 the original affidavit and determine if the affidavit with  
23 the added information contains probable cause; Sherwood  
24 versus Mulvihill, 113, F.3d 396, Third Circuit 1997.

25 The Defendant to obtain a Franks hearing must first

1 make a substantial preliminary showing that the affidavit  
2 contained a false statement which was made knowingly or with  
3 reckless disregard to the truth and that the false statement  
4 is material to the finding of probable cause.

5 And those two things would be equally applicable to  
6 an omission; and today the task of the Court is to determine  
7 if it is an omission and it would be a factually accurate  
8 statement that is asserted, to put that into the affidavit  
9 and determine if, with the added information, there is  
10 probable cause.

11 Okay. So those are the standards that the Court  
12 will be looking at. We're going to handle the issues  
13 surrounding the suppression relating to the lack of  
14 probable -- the asserted lack of probable cause for the  
15 seizure of the Subaru and the arrest of the Defendant.

16 Ms. Silinski, you'll go first.

17 MS. SILINSKI: Yes, Your Honor. The Government is  
18 going to call Detective Mark Hetherington as the Government's  
19 witness.

20 THE COURT: The witness will please come forward  
21 into the witness box.

22 (The witness, DETECTIVE MARK HETHERINGTON, was duly  
23 sworn.)

24 MS. SLINSKI: And Your Honor, does the Court have a  
25 preference whether I stand or sit at counsel table for --



M. HETHERINGTON - DIRECT

1 THE COURT: You know, in these days with the --

2 MS. SLINSKI: I have a feeling the microphone --

3 THE COURT: You're probably better off there.

4 MS. SILINSKI: Okay. Yes, ma'am.

5 THE COURT: Just make sure you pull the mike maybe  
6 a little closer to you. That way we can get a clear hearing.

7 MS. SILINSKI: Sure. Can you hear me okay?

8 THE COURT: Yes.

9 DIRECT EXAMINATION

10 BY MS. SILINSKI:

11 Q. Okay. Could you please state and spell your name for  
12 the record?

13 A. Mark Hetherington, H-e-t-h-e-r-i-n-g-t-o-n.

14 Q. And Mr. Hetherington, by whom are you employed?

15 A. North Versailles Township Police Department.

16 Q. How long have you worked for the North Versailles  
17 Township Police Department?

18 A. Twenty-two years.

19 MR. BILLS: I'm sorry. Could we ask the witness to  
20 speak up?

21 THE COURT: Yes. Lean close to the mike. If you  
22 speak directly into the bulb, they'll hear you.

23 A. Twenty-two years.

24 Q. And prior to working with the North Versailles  
25 Township Police Department, what did you do?

M. HETHERINGTON - DIRECT

1 A. I was a police officer in the Borough of North  
2 Braddock and Rankin.

3 Q. And how long in total have you worked in law  
4 enforcement?

5 A. About 25 years.

6 Q. Are you a member of any Task Forces?

7 A. I am.

8 Q. And which is that?

9 A. The District Attorney's Narcotics Enforcement Team.

10 Q. And do you have experience investigating narcotics  
11 trafficking?

12 A. I do.

13 Q. Were you involved in the arrest of the Defendant,  
14 Mr. Terry Suggs, and his co-Defendant, Mr. Jermaine Clark, on  
15 February 25, 2019?

16 A. I was.

17 Q. When did you become involved in the investigation  
18 related to Mr. Suggs and Mr. Clark?

19 A. October of 2018.

20 Q. Okay. And what happened in October of 2018?

21 A. We were -- we had a CI that had informed us that he  
22 could make purchases of a large amount of cocaine from a  
23 gentleman from the Philadelphia area.

24 Q. And when you say CI, can you identify for the Court  
25 and the record what a CI is?

M. HETHERINGTON - DIRECT

1 A. Confidential informant.

2 Q. As it relates to the confidential informant, did the  
3 CI provide a name for the source of supply in Philadelphia?

4 A. He did.

5 Q. And what was that name?

6 A. Fats.

7 Q. And did you understand that Fats was a street name or  
8 a nickname used by that individual?

9 A. Yes.

10 THE COURT: I'm sorry. Are you saying Fats?

11 MS. SILINSKI: Fats. F-a-t-s is the phonetics. I  
12 think there are a couple of different spellings of that  
13 potentially.

14 THE COURT: Okay.

15 BY MS. SILINSKI:

16 Q. Is that correct, as far as the phonetic?

17 A. Yes.

18 Q. Okay. Now, did the CI provide any additional  
19 information related to Fats at the time?

20 A. As far as -- he told us that he has bought large  
21 quantities of cocaine from him, and that Fats travels from  
22 Philadelphia to Pittsburgh and sees multiple customers and  
23 distributes cocaine to them.

24 Q. Okay. And if we can break that down a little bit  
25 more, did the CI provide -- when you say large quantities,

M. HETHERINGTON - DIRECT

1 did they indicate -- did the CI indicate what those large  
2 quantities were?

3 A. Kilos of cocaine.

4 Q. And as far as the timeframe that the CI had purchased  
5 cocaine from the individual named Fats, approximately how  
6 long had the CI purchased cocaine from Fats? A year? Two  
7 years?

8 A. I believe it was a little over a year.

9 Q. Did the CI also have access to the telephone number  
10 used by Fats?

11 A. Yes.

12 Q. Do you recall approximately how much the CI paid for a  
13 kilogram of cocaine?

14 A. Between \$30,000 and \$33,000, I believe.

15 Q. Now, did the CI also provide any information related  
16 to where the drug transactions occurred? You mentioned that  
17 Fats would come from Philadelphia to Pittsburgh. Was there a  
18 specific location?

19 A. Yes.

20 Q. Okay. And what was that?

21 A. It was Grant Street in North Braddock.

22 Q. Did you have an understanding as to whether or not  
23 there was a residence on Grant Street in North Braddock, or  
24 was it just on the street? Where specifically?

25 A. A residence.

M. HETHERINGTON - DIRECT

1 Q. Did you also -- did the CI identify a vehicle that was  
2 operated by Fats?

3 A. Yes.

4 Q. And what vehicle was that?

5 A. A Chevy Traverse.

6 Q. Now, did law enforcement identify what Fats' legal  
7 name or given name was?

8 A. We did.

9 Q. Okay. And how did law enforcement do that?

10 A. I believe it was through the McLaughlin system.

11 Q. And what is that?

12 A. It's a system that utilizes for phone numbers to do  
13 reverse lookups, I believe. Detective Keenan is the one who  
14 actually discovered the identity of Fats.

15 Q. Okay. And can you identify, are you aware based upon  
16 your involvement in this investigation who Fats is?

17 A. Yes.

18 Q. And who is that?

19 A. Jermaine Clark.

20 Q. Did law enforcement have an opportunity to show the  
21 confidential informant a driver's license photograph of  
22 Mr. Clark?

23 A. They did.

24 Q. And based upon that photograph, did the confidential  
25 source indicate who that individual was in the photograph?

M. HETHERINGTON - DIRECT

1 A. Yes.

2 Q. And who was that?

3 A. Jermaine Clark.

4 Q. Known to you -- the CI, as Fats, though; correct?

5 A. Correct.

6 Q. Now, we were talking about October of 2018 when you  
7 and other law enforcement officers learned from the CI that a  
8 source of supply from Philadelphia could possibly be the  
9 subject of an investigation; correct?

10 A. Yes.

11 Q. Now, is it your understanding based upon your training  
12 and experience, is Philadelphia commonly known to law  
13 enforcement as a source city for cocaine?

14 A. Yes.

15 Q. Okay. And is Pittsburgh a source city as well?

16 A. No.

17 Q. Okay. What is Pittsburgh considered?

18 A. Distribution.

19 Q. Now, in February of 2019, did law enforcement involved  
20 in this investigation engage in a telephone call where the  
21 the CI essentially called Mr. Clark to arrange for a purchase  
22 of cocaine?

23 A. Yes.

24 Q. Do you recall what quantity of cocaine he was  
25 intending to obtain?

M. HETHERINGTON - DIRECT

1 A. Five kilos.

2 Q. Did the CI at the time provide law enforcement with a  
3 telephone number for Mr. Clark?

4 A. Yes.

5 Q. Okay. After the initial call was made, did Mr. Clark  
6 confirm that he could come to Pittsburgh to conduct a drug  
7 transaction?

8 A. Yes.

9 Q. Okay. Approximately how soon after did law  
10 enforcement then engage in subsequent phone calls with  
11 Mr. Clark via the CI?

12 (No verbal response.)

13 Q. I guess -- let me rephrase my question. Was the call  
14 that was initially made regarding the five kilogram  
15 transaction, did that occur a month before? A year before?  
16 Six months before? Or within a few days?

17 A. Within a few days.

18 Q. Okay. Did you learn based upon your involvement in  
19 this investigation that Mr. Clark was intending to come to  
20 the Pittsburgh area to effectuate the drug deal on or about  
21 either Monday or Tuesday, which would be February 25 or 26 of  
22 2019?

23 A. Yes.

24 Q. And what happened next as it relates to the  
25 investigation?

M. HETHERINGTON - DIRECT

1 A. The CI had contacted Detective Bonacci and informed  
2 him that Fats was currently in Pittsburgh and staying at the  
3 Westin Hotel.

4 Q. Do you recall what day the CI contacted Detective  
5 Bonacci?

6 A. I believe it was the 24th, the day prior to.

7 Q. As it relates to the communication between the CI and  
8 Detective Bonacci, how did the CI know that Mr. Clark was in  
9 Pittsburgh?

10 A. The CI informed us that he had met Mr. Clark on the  
11 evening of the 24th.

12 Q. And when you indicate he met Mr. Clark, did the CI  
13 provide a location as to where the meeting occurred?

14 A. He said that he met him at a restaurant, and that he  
15 was with his cousin.

16 Q. Now, did Mr. -- I'm sorry -- did the CI provide any  
17 information related to -- strike that.

18 Earlier you mentioned that Mr. Clark -- the CI had  
19 informed you that Mr. Clark drove a Chevy Traverse; is that  
20 correct?

21 A. Yes.

22 Q. Did law enforcement try to locate the Chevy Traverse  
23 in advance of the drug transaction?

24 A. Yes.

25 Q. Did law enforcement locate the Chevy Traverse?



M. HETHERINGTON - DIRECT

1 A. We did not.

2 Q. Okay. Having not located the Traverse, what did law  
3 enforcement do?

4 A. Detective Bonacci then contacted the CI again and  
5 asked if Clark was in his normal vehicle, which would be the  
6 Chevy Traverse. And the CI informed Bonacci that on Sunday  
7 when he had met with him, they were in his cousin's Subaru.

8 Q. Did the CI provide a color or what he thought was the  
9 color of the Subaru?

10 A. I believe he stated it was a silver Subaru.

11 Q. Now, as far as the timing -- so you mentioned that on  
12 February 24, that evening, the CI indicated that he had met  
13 with Mr. Clark and who was identified at that time to him as  
14 Mr. Clack's cousin; correct?

15 A. Correct.

16 Q. And the following day, just to make sure I understand  
17 and the record is clear, was it the following day that you  
18 tried to locate the vehicle?

19 A. Yes.

20 Q. Okay. So that is the morning of the 25th?

21 A. Yes.

22 Q. And on the morning of the 25th, law enforcement was  
23 advised that the night before at least, Mr. Clark and his  
24 cousin were using his cousin's gray Subaru; correct?

25 A. Yes.

M. HETHERINGTON - DIRECT

1 Q. All right. Were you able to locate the gray Subaru in  
2 the Westin parking deck?

3 A. No.

4 Q. All right. After law enforcement attempted to locate  
5 the vehicles and were unsuccessful, what did law enforcement  
6 do at that time?

7 A. We met at a secure location and made some recorded  
8 phone calls to Mr. Clark.

9 Q. And were you present for at least some of the recorded  
10 phone calls?

11 A. I was.

12 Q. Okay. What generally speaking was the nature of those  
13 recorded calls?

14 A. I believe it was time and location on where to meet to  
15 do the transaction.

16 Q. Okay. And as it relates to the location, where did  
17 you understand that Mr. Clark and the CI would be meeting?

18 A. The 1400 block of Grant Street in North Braddock.

19 Q. And are you familiar with the North Braddock area of  
20 Pittsburgh?

21 A. I am.

22 Q. And based on your training and experience, are you  
23 aware of drug trafficking activity that occurs within the  
24 North Braddock area of Pittsburgh?

25 A. Yes.

M. HETHERINGTON - DIRECT

1 Q. Now, after the telephone calls were placed, just to be  
2 clear, at that time the telephone call specifically though  
3 was not with Mr. Suggs; correct?

4 A. Correct.

5 Q. Okay. After the call was placed -- after those calls  
6 occurred where the deal was set up, the time and the location  
7 was determined, what did you do?

8 A. I then went to the area of the 1400 block of Grant  
9 Street to set up surveillance.

10 Q. And did you set up surveillance?

11 A. I did.

12 Q. Did you have a view of the area where the drug  
13 transaction was to occur?

14 A. Yes.

15 Q. After you set up surveillance, can you describe for  
16 the Court what happened thereafter?

17 A. The Chevy Traverse and the Subaru then arrived in the  
18 1400 block of Grant Street.

19 Q. Okay. And did you make any observations? Did the  
20 Traverse and Subaru pass you? Did they park? What happened?

21 A. They had parked.

22 Q. Okay. And in what proximity to where the deal was to  
23 occur?

24 A. Across the street, I believe.

25 Q. Now, as it relates to the Chevy Traverse and Subaru,

M. HETHERINGTON - DIRECT

1 did you observe whether there were occupants of those  
2 vehicles?

3 A. I did.

4 Q. Okay. After the vehicle pulled over across the street  
5 or thereabouts from where the deal was to occur, what did you  
6 observe?

7 A. I observed a large black male exit the vehicle -- exit  
8 the Subaru, I'm sorry -- and enter into the Chevy Traverse.

9 Q. Did you make any observations with regards to the gray  
10 Subaru after the individual that you observed exited the  
11 vehicle?

12 A. I noticed that the vehicle was still running, that it  
13 was never shut off.

14 Q. Okay. All right. After you observed the individual  
15 exit the Subaru, did you observe any other passengers in the  
16 Subaru?

17 A. I did not.

18 Q. Did you observe any other passengers inside the Chevy  
19 Traverse?

20 A. I did not.

21 Q. Based upon your knowledge as it relates to the  
22 investigation, did you identify the Chevy Traverse as the  
23 vehicle that the CI had previously identified as a vehicle  
24 used and operated by Mr. Clark?

25 A. Yes, we did.

M. HETHERINGTON - DIRECT

1 Q. Okay. And based upon your knowledge as it relates to  
2 the events that occurred surrounding February 25, 2019, did  
3 you believe that the gray Subaru that you observed, silver  
4 Subaru that you observed, was the Subaru referenced by the CI  
5 as belonging to Mr. Clark's cousin?

6 A. Yes.

7 Q. Now, based upon your 25 years as a law enforcement  
8 officer and investigating drug trafficking, are you aware of  
9 the terms load car and trail car, t-r-a-i-l?

10 A. Yes.

11 Q. And what do those terms mean as it relates to drug  
12 trafficking?

13 A. Typically when drug traffickers are transporting large  
14 amounts of narcotics and/or cash, they'll use two different  
15 vehicles, and a lot of times they'll keep narcotics in one  
16 vehicle, cash in the other vehicle. It's kind of just to  
17 watch one another's back as they're conducting business.

18 Q. Okay. Now, after you made these observations with  
19 regards to the Chevy Traverse and Subaru and saw the driver  
20 of the Subaru enter the Chevy Traverse, what happened?

21 A. It was at that time that Detective Bonacci made the  
22 decision to move in and detain the two suspects that were  
23 inside the Chevy Traverse.

24 Q. And can you describe -- at that point were Mr. -- were  
25 the two individuals asked to exit the vehicle?

M. HETHERINGTON - DIRECT

1 A. They were.

2 Q. Did they comply?

3 A. They did.

4 Q. Okay. At that time did law enforcement conduct a  
5 pat-down and search of their person?

6 A. We did.

7 Q. Okay. And the purpose of that was?

8 A. To identify the actors and make sure they had no  
9 weapons on them. So it was for officer safety purposes and  
10 to identify them.

11 Q. Okay. Did you ask them for identification?

12 A. I believe we did, yes.

13 Q. Did they produce identification?

14 A. No.

15 Q. Okay. All right. Did you locate on Mr. Clark any  
16 identification?

17 A. We did.

18 Q. Okay. And did the identification confirm that it was  
19 Mr. Jermaine Clark?

20 A. Yes.

21 Q. And you prior to that had indicated he was from  
22 Philadelphia. Did that match on the driver's license?

23 A. It did.

24 Q. The second individual that you described exiting the  
25 gray Subaru, is it fair to say that at that point you only

M. HETHERINGTON - DIRECT

1 knew him as Mr. Clark's cousin?

2 A. Correct.

3 Q. And did that individual have identification on him?

4 A. He did.

5 Q. Were you able to review -- you or other officers  
6 review the driver's license?

7 A. Yes.

8 Q. And at that point did you make an identification?

9 A. Yes.

10 Q. And did the identification indicate the individual was  
11 Mr. Suggs?

12 A. Yes.

13 Q. Did you locate on the identification where Mr. Suggs  
14 was from?

15 A. Yes.

16 Q. And where is that?

17 A. Philadelphia.

18 Q. Were there any other items that were on Mr. Suggs'  
19 person?

20 A. I believe he had two cell phones on him.

21 Q. And Mr. Clark?

22 A. Two cell phones also.

23 Q. Now, at the time you mentioned that the vehicle, the  
24 gray Subaru, was left running; is that correct?

25 A. Yes, ma'am.

M. HETHERINGTON - DIRECT

1 Q. Did you or any other law enforcement officers ask  
2 Mr. Suggs or Mr. Clark if the vehicle was associated with  
3 them?

4 A. We did.

5 Q. And what was their response?

6 A. They had no knowledge of the vehicle.

7 Q. Okay. You described though that you observed  
8 Mr. Suggs exiting that vehicle; correct?

9 A. Correct.

10 Q. At that point in time did you observe any other  
11 individuals from the residences around or anyone -- did  
12 anyone come to the vehicle indicating that they owned the  
13 vehicle?

14 A. No.

15 Q. At that point in time did law enforcement locate and  
16 identify that there were keys left in the ignition?

17 A. Yes, ma'am.

18 Q. Okay. Did law enforcement make a decision with regard  
19 to the vehicle that was left on the street and still running  
20 as to what you would do with it?

21 A. Yes.

22 Q. And what was that decision?

23 A. To tow it.

24 Q. And at that point did law enforcement tow both the  
25 Subaru and the Traverse?



M. HETHERINGTON - DIRECT

1 A. We did.

2 Q. And where were those vehicles towed to?

3 A. To the Swissvale Police Department.

4 Q. Okay. After -- at that time also were Mr. Suggs and  
5 Mr. Clark placed under arrest?

6 A. They were.

7 Q. And were they transported back to the Swissvale Police  
8 Department?

9 A. Yes.

10 Q. Now, previously you had mentioned that law enforcement  
11 were able to confirm Fats' identity based upon a driver's  
12 license photograph. Is it your understanding that one of  
13 your fellow law enforcement officers sent a photograph of  
14 Mr. Suggs to the confidential source?

15 A. Yes.

16 Q. And based upon that, is it your understanding if  
17 Mr. Suggs was identified by the CI?

18 A. He was.

19 Q. After the vehicles were towed back to the Swissvale  
20 Police Department, what happened?

21 A. A K9 sniff was conducted on both vehicles. The K9  
22 indicated hits on both of the vehicles in the same area,  
23 which would have been near the gas tank where you would fill  
24 the gas tank up at, where you put the gas in the car.

25 Q. Okay. And is it fair to say that's towards the rear

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1 of the vehicle?

2 A. Yes, ma'am.

3 Q. Now, prior to the dog sniff, had law enforcement been  
4 informed by the confidential source whether or not Mr. Clark  
5 operated vehicles with a trap location or a concealed area to  
6 store drugs and money?

7 A. Yes.

8 Q. And was it your understanding that the Traverse  
9 contained such a compartment?

10 A. Yes.

11 Q. Now, once the -- so the dog alerted to the presence of  
12 narcotics on the Traverse; correct?

13 A. Yes.

14 Q. And also alerted to the presence of narcotics in the  
15 Subaru?

16 A. Yes.

17 Q. What happened next?

18 A. Detective Keenan applied for the search warrants for  
19 the vehicles.

20 Q. Have you had an opportunity to review the search  
21 warrant to the vehicle?

22 A. I did.

23 Q. Okay. As it relates to the search warrants, did law  
24 enforcement obtain authorization to search the vehicles?

25 A. Yes.

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1 Q. Now, did law enforcement search the vehicles?

2 A. We did.

3 Q. Were you involved in the search of the vehicles?

4 A. I was.

5 Q. All right. Can you describe for us what law  
6 enforcement identified in the Chevy Traverse, if anything?

7 A. Yes. In the rear of the vehicle, the cargo area or  
8 third row seating, if you will, underneath the seat was a  
9 trap that we discovered.

10 Q. And when you say trap, is that -- can you describe  
11 kind of in laymen's terms what is that --

12 A. It's a hidden compartment in which -- it's concealed  
13 within the vehicle so that dealers will utilize it to  
14 transport narcotics and cash so that -- to make it more  
15 difficult to locate for law enforcement.

16 Q. And based upon your training and experience, is it  
17 common for large scale drug traffickers to utilize a  
18 compartment like you've described in their vehicles for  
19 transporting United States currency and controlled  
20 substances?

21 A. Yes.

22 Q. Okay. Now, one question I wanted to go back to, at  
23 the time going back to the Subaru when it was parked on the  
24 street with the keys still running, did a law enforcement  
25 officer have to enter the vehicle to turn the vehicle off?

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1 A. Yes, ma'am.

2 Q. Okay. Did law enforcement try to identify who owned  
3 the vehicle since neither Mr. Clark nor Mr. Suggs claimed  
4 that the vehicle was theirs?

5 A. Yes.

6 Q. And were you able to identify who owned the vehicle?

7 A. We were not.

8 Q. Did law enforcement --

9 A. I'm sorry. We were able to confirm the owner on the  
10 vehicle.

11 Q. Okay. And where was the owner of that vehicle  
12 located?

13 A. In Philadelphia.

14 Q. And was the owner of that vehicle either Mr. Clark or  
15 Mr. Suggs?

16 A. No.

17 Q. Did law enforcement observe any other items in the  
18 vehicle that would have provided identification for who was  
19 operating or owning the vehicle so that it could be returned?

20 A. No.

21 Q. Did law enforcement locate anything in the vehicle  
22 prior to the search that was conducted?

23 A. Yes. There was a large sum of money sitting on the  
24 passenger rear floor of the vehicle.

25 Q. Did you observe that currency?

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1 A. I did.

2 Q. Okay. And can you describe for the Court how that  
3 United States currency was packaged, if at all? Was it  
4 loose? In a bag? How did you observe it?

5 A. It was smaller denominations of bills stacked together  
6 and tied together or stuck together with rubber bands.

7 Q. All right. When law enforcement executed the search  
8 of the Subaru, the money was still in the vehicle; correct?

9 A. Yes, ma'am.

10 Q. Okay. Did law enforcement locate anything else within  
11 the Subaru?

12 A. Yes, ma'am.

13 Q. And what was that?

14 A. We located another trap in the rear of the Subaru, the  
15 cargo area, again, of the vehicle.

16 Q. Okay. And how did you identify that area?

17 A. As we were searching the vehicle, I noticed that the  
18 carpet was pulled away from the interior wall of the vehicle.  
19 At that time you could tell it wasn't factory produced. So I  
20 pulled the carpet back a little further, at which time that  
21 revealed a fresh weld of some type of box underneath the  
22 carpet.

23 Q. And based upon your training and experience and  
24 information related to this investigation, was it your belief  
25 that that was a trap compartment or concealed compartment?

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1 A. Yes, ma'am.

2 Q. Did law enforcement access that compartment?

3 A. Yes, ma'am.

4 Q. And what was located inside the compartment?

5 A. Eighteen keys of cocaine.

6 Q. And when you say "keys" --

7 A. Kilos.

8 Q. Kilos, okay. Now, based upon your training and  
9 experience, did you have an opportunity to personally observe  
10 the controlled substances -- or suspected controlled  
11 substances in the Traverse and the Subaru?

12 A. Yes.

13 Q. And in those two vehicles, those controlled  
14 substances, were they field tested?

15 A. They were.

16 Q. As it relates to the five kilograms that were located  
17 within the Traverse, did that field test positive for  
18 anything?

19 A. Yes.

20 Q. And what was that?

21 A. Cocaine.

22 Q. Based upon this investigation, was it your  
23 understanding -- you testified earlier that Mr. Clark had set  
24 up a deal with the confidential source for five kilograms;  
25 correct?

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1 A. Yes.

2 Q. Now, the suspected narcotics in the Subaru, were those  
3 also field tested?

4 A. They were.

5 Q. And I should say did you field test each and every  
6 kilogram, or did you field test one of them as it relates to  
7 that?

8 A. One.

9 Q. Okay. What, if anything, did they field test positive  
10 for?

11 A. Cocaine.

12 Q. Did you make any observations as it relates to the  
13 manner in which those controlled substances were packaged?

14 A. Yes. The five kilos that were in the Traverse and the  
15 18 kilos that were in the Subaru were both packaged in the  
16 same manner.

17 Q. Can you describe when you say in the same manner, what  
18 that means?

19 A. I believe they all had vacuum sealed baggies on the  
20 exterior. Underneath that was a layer of black electrical  
21 tape. Underneath the black electrical tape, I believe, was  
22 green Seran wrap. Once you got down to the actual cocaine  
23 itself, they were stamped with a K, and I believe it was a  
24 backwards Z. So it was KZ, but the Z was backwards.

25 Q. And did you make the observation that that same stamp

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1 was located on the cocaine found in the Traverse as the  
2 Subaru?

3 A. Yes.

4 Q. And based on your training and experience, is it your  
5 understanding that the cocaine was packaged for distribution?

6 A. Yes.

7 Q. In your training and experience as it relates to drug  
8 traffickers, have you made any observations with regards to  
9 their use of cellular telephones?

10 A. Yes.

11 Q. And is it common for individuals who are involved in  
12 drug trafficking to possess multiple cell phones?

13 A. Yes.

14 MS. SILINSKI: Your Honor, with that, I'll pass the  
15 witness for cross-examination.

16 MR. BILLS: Thank you. May I stand?

17 THE COURT: Yes, you may.

18 MR BILLS: And use this microphone?

19 THE COURT: Let's see if the court reporter is  
20 comfortable with that distance.

21 THE COURT REPORTER: I think that's far enough.  
22 That's fine.

23 CROSS-EXAMINATION

24 BY MR BILLS:

25 Q. Good morning, Detective.



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1 A. Good morning.

2 Q. You had indicated that the buy-bust was to go down on  
3 2/25/19 and approximately between three and four o'clock; is  
4 that correct?

5 A. Yes, sir.

6 Q. All right. However, the investigation started some  
7 time before that; is that correct?

8 A. Yes.

9 Q. All right. And as a matter of fact, you put that time  
10 as sometime in October of '18; is that correct?

11 A. Yes.

12 Q. What happened in October of '18? Did you come in  
13 contact with the confidential informant in October?

14 A. Yes.

15 Q. All right. And how much interaction in October to  
16 let's say mid February did you have with this confidential  
17 informant?

18 A. Myself, not much. Very little.

19 Q. Was it Officer Bonotti (sic)?

20 A. Bonacci, yes, sir.

21 Q. Bonetti, I'm sorry. He had contact -- it was his CI;  
22 was it not?

23 A. I believe so, yes.

24 Q. And he would have had -- were there phone calls for a  
25 five-kilo deal as far back as February -- or October?

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1 A. I have no knowledge of that.

2 Q. I'm sorry?

3 A. I don't have any knowledge of when he knew.

4 Q. All right. Well, you do know that immediately, within  
5 four or five days of February 25, the investigation for the  
6 buy-bust heated up; did you not?

7 A. Yes.

8 Q. Okay. And that's because the informant called an  
9 individual in Philadelphia; am I correct?

10 A. Again, sir, I'm not certain because I was not  
11 involved.

12 Q. Well, if Officer Bonotti testified to that, you  
13 wouldn't dispute that?

14 A. I wasn't there.

15 Q. I understand you weren't there. But you know for a  
16 fact that the CI made phone calls to an individual by the  
17 name of Clark; correct?

18 A. Correct.

19 Q. All right. And in these phone calls they were  
20 monitored and recorded; am I correct?

21 A. Yes, sir.

22 Q. And they were done by Officer Bonotti; am I correct?

23 A. They were done by Detective Bonacci and --

24 Q. Bonetti?

25 A. -- and Detective Keenan.

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1 Q. Okay. Those two. And did they tell you -- did either  
2 one or both of them tell you that we're having monitored  
3 phone calls with the CI and an individual who's going to  
4 deliver five kilos?

5 A. Yes.

6 Q. Okay. Now, how many times did they tell you that the  
7 calls are going through?

8 A. They didn't.

9 Q. Was it more than five?

10 MS. SILINSKI: Your Honor, the witness has answered  
11 he doesn't know.

12 MR. BILLS: All right. We're going to be calling  
13 other witnesses.

14 THE COURT: You just need to move on if he doesn't  
15 know.

16 MR BILLS: I will.

17 BY MR. BILLS:

18 Q. There's no doubt that any of the communications  
19 between the CI and Clark were only between the CI and Clark;  
20 correct?

21 A. I don't know.

22 Q. At no point in time in this investigation was anyone  
23 by the name of Suggs mentioned to you; is that correct?

24 A. Correct.

25 Q. And at no point in time in this investigation was any

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1 other vehicle outside of the Traverse mentioned to you? Is  
2 that correct?

3 A. No, sir.

4 Q. And do you know, when Officer Bonetti told you that  
5 the calls were being made, was he overhearing them?

6 A. I believe so -- or I believe it was on speaker or  
7 recorded. I don't know. I wasn't there --

8 Q. Well, if he was overhearing, if he overheard the call,  
9 it was either because they put the CI on speaker, or he just  
10 listened in; one of the other? Is that correct?

11 A. Correct.

12 Q. All right. And are you aware of any paper indicating  
13 that the CI voluntarily did this and wasn't coerced?

14 A. I'm not aware of any.

15 Q. All right. Did you ever see an authorization from the  
16 Attorney General that there can be overhears on a consensual  
17 monitoring?

18 A. No, sir.

19 Q. I'm going to take you to 2/25/21. That was the take-  
20 down; correct?

21 A. 2/25/21?

22 Q. 2/25/19. I'm sorry. 2/25/19. 2/25/19, that was the  
23 day of the take-down?

24 A. Yes, sir.

25 Q. In North Braddock?

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1 A. Yes, sir.

2 Q. On Grant Street?

3 A. Yes, sir.

4 Q. Is that right?

5 A. Yes, sir.

6 Q. And when you went there, you were on surveillance?

7 A. Yes, sir.

8 Q. And where were you positioned?

9 A. In the 1300 block, I believe.

10 Q. All right. Did you have a clear view of the Traverse?

11 A. I did.

12 Q. And you didn't expect, you had no expectation that  
13 there would be anyone other than the Traverse and Clark; am I  
14 correct?

15 A. You're not.

16 Q. I'm not?

17 A. You're not.

18 Q. Did you have any information there was going to be  
19 another car?

20 A. Yes, sir.

21 Q. What was that?

22 A. The CI had informed us that when he met with Clark on  
23 Sunday, the day prior, that he was with his cousin, and they  
24 were driving his cousin's car, which was the Subaru.

25 Q. All right. You didn't -- did you expect the Subaru to

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1 show up?

2 A. No.

3 Q. No. Did you expect -- you knew nothing about Mr.  
4 Suggs; did you?

5 A. Nope.

6 Q. And if I understand it correctly, do you see this  
7 Terry Suggs get out of the car and walk to the Traverse?

8 A. Yes.

9 Q. Did Mr. Suggs have a backpack?

10 A. I'm sorry?

11 Q. A backpack on?

12 A. Not that I recall.

13 Q. You didn't seize one; did you?

14 A. I'm sorry?

15 Q. You didn't seize one after he was arrested; did you?

16 A. I don't believe so.

17 Q. And you didn't see him with anything in his hands?

18 A. No, sir.

19 Q. You didn't see a bulge in his waistband; did you?

20 A. No.

21 Q. So he was unarmed and not carrying anything; is that  
22 correct?

23 A. Correct.

24 Q. And when he sat down, how long was he in the Traverse?

25 A. Not very long.

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1 Q. Do you want to give me an estimate? A minute? Two  
2 minutes?

3 A. Two minutes, three minutes I guess.

4 Q. So then you had a take-down team; is that correct?

5 A. Yes.

6 Q. And how many people were on the take-down team?

7 A. I don't recall. I could guess and say ten.

8 Q. Ten?

9 A. Eight maybe. I don't know.

10 Q. Eight to ten? Bonetti put it at eight. Would you  
11 disagree with that?

12 A. No, sir.

13 Q. And each one of them had guns; is that correct?

14 A. Yes, sir.

15 Q. And each one of them had vests; is that correct?

16 A. Yes, sir.

17 Q. And Tasers?

18 A. I don't know.

19 Q. And badges?

20 A. Yes.

21 Q. And when they -- did they have helmets?

22 A. I don't believe so.

23 Q. Well, they had Pennsylvania State Police there; didn't  
24 they?

25 A. They did.

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1 Q. They had the take-down team; is that correct?

2 A. They did.

3 Q. How many revolvers and how many AR's?

4 A. I don't know.

5 Q. Well, you were watching it; were you not?

6 A. I was.

7 Q. Well, did you see anyone with an AR?

8 A. I don't recall, to be honest with you.

9 Q. Well, you're not -- you don't recall it, but you're  
10 not saying they didn't have it? Am I correct?

11 A. Yes.

12 Q. And did you see the red dot scopes on any of the  
13 handguns or the AR?

14 A. No, sir.

15 Q. Guns for the police are accessible -- they have the  
16 technology for red dots; is that correct?

17 A. They do.

18 Q. And did you see any red dots flashing inside this  
19 vehicle?

20 A. None that I recall.

21 Q. Okay. Now, did you hear or overhear anyone saying,  
22 "Hands, get your fucking hands up," quote?

23 A. Yes.

24 Q. All right. How many -- excuse me. I'm going to move  
25 over here. How much individuals or how many people said "Get



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1 your fucking hands up," unquote?

2 A. I have no knowledge.

3 Q. Well, you had heard it?

4 A. I heard it.

5 Q. Did you hear it from one, or did you hear it from  
6 more?

7 A. I would say more.

8 Q. And that's standard operating procedure for emphasis;  
9 is it not?

10 A. Yeah.

11 Q. Or they just like to use that word because --  
12 whatever; right?

13 A. No. As you stated, there was a --

14 MS. SLINSKI: Your Honor, I'm going to object at  
15 this point as to the relevance for a suppression hearing with  
16 regards to the precise terminology. This witness has stated  
17 that he does not recall specifically how many individuals  
18 stated what the terms were used.

19 He's also indicated he works for one police  
20 township. He's not a State Trooper. He doesn't work for the  
21 State Police. So I think defense counsel has asked this  
22 question, and he's received an answer, and he can and should  
23 move on to the suppression issues at hand.

24 MR. BILLS: I don't need the garbage. I can move  
25 on.

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1 THE COURT: Okay.

2 Q. Now, at some point in time, the eight individuals,  
3 they all had their guns drawn; did they not?

4 A. I would assume so, but I don't know for certain. I  
5 don't know what each individual officer or detective was  
6 doing at that current time.

7 Q. Did you have a surveillance, an observation of it?

8 A. I did.

9 Q. And did you see their guns drawn?

10 A. I seen weapons and --

11 Q. What?

12 A. Weapon, yes.

13 Q. What weapons? Out of their holsters?

14 A. Yes.

15 Q. And in their hands?

16 A. Yes.

17 Q. And trained on the vehicle?

18 A. Yes.

19 Q. And would that be unanimous for all eight?

20 A. I'm sorry?

21 Q. Would that be unanimously across the board all eight  
22 had their firearms out, trained on the vehicle?

23 A. Again, I can't answer what each individual officer was  
24 doing.

25 Q. Okay. But there were definitely guns drawn on the

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1 vehicle?

2 MS. SLINSKI: Your Honor, asked and answered.

3 MR. BILLS: Okay. I can move on.

4 Q. Now, at some point in time Mr. Suggs was taken out of  
5 the vehicle; is that correct?

6 A. Correct.

7 Q. And at some point in time Mr. Suggs was handcuffed; is  
8 that correct?

9 A. Correct.

10 Q. And at some point in time immediately thereafter  
11 Mr. Suggs was put on the side of the road face down; am I  
12 correct?

13 A. Yes.

14 Q. All right. And we can both agree that told to put  
15 your hands up, guns drawn, taken out, handcuffed behind his  
16 back and put on the side of the road, he wasn't free to  
17 leave?

18 A. No, not at that time.

19 Q. And was there one of the officers assigned to watch  
20 Mr. Suggs?

21 A. I'm not aware of that.

22 Q. Did you see an officer standing beside Mr. Suggs while  
23 he was on the side of the road?

24 A. I saw several officers standing next to Mr. Suggs.

25 Q. And did you hear anyone question Mr. Suggs and he

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1 reply, "It's not my vehicle"?

2 A. He said nothing. They asked him, and he said nothing.

3 Q. Well, if Officer Bonetti said Mr. Suggs said it's not  
4 my vehicle, would you dispute that?

5 A. I would not.

6 Q. You wouldn't?

7 A. Nope.

8 Q. And do you know whether or not that answer from  
9 Mr. Suggs came in response to a question by one of the  
10 individuals that was surrounding him?

11 A. I do not.

12 Q. And did you review the file before you came in to  
13 testify today?

14 A. I'm sorry? Did I review --

15 Q. Did you review this file before you came in to testify  
16 today?

17 A. Yes, sir.

18 Q. And did you review the preliminary hearing transcript  
19 where Officer Bonetti testified?

20 A. I did not.

21 Q. Why not?

22 A. I don't know. I didn't --

23 Q. Well, he was a lead on this; was he not?

24 A. Yes.

25 Q. Okay. And the lead in this particular case testified

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1 under oath at a preliminary hearing; is that correct?

2 A. Yes.

3 Q. Didn't you think it was important to review what he  
4 said under oath?

5 A. No.

6 Q. You didn't find that important?

7 A. No, sir.

8 Q. You didn't find that you could fill in the blanks from  
9 what Bonetti said to you and to others?

10 (No response.)

11 Q. Now, in this case there was an individual dog by the  
12 name of Atlas; is that correct?

13 A. Yes, sir.

14 Q. And you quoted that in the search warrant; correct?

15 A. I didn't type the search warrant, but I believe  
16 Detective Keenan quoted that in the search warrant.

17 Q. Okay. Officer Bonetti said that Atlas hit on both  
18 cars; am I correct?

19 A. Yes.

20 Q. Well, when the dog hits, that's the conclusion of the  
21 trip around by the handler; am I correct?

22 A. I'm not a K9 handler, sir. I don't know.

23 Q. I know. I know. But I'm still asking the questions.

24 MS. SLINSKI: Your Honor, the witness has answered  
25 the question, and defense counsel's assertion or trying to

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1 force an answer upon this witness is inappropriate.

2 At a suppression hearing, Your Honor, it's the  
3 Government's responsibility to present a witness, and defense  
4 counsel has had ample opportunity and could have subpoenaed  
5 individuals to testify today. Mr. -- Detective Hetherington  
6 today has testified as it relates to the probable cause  
7 issues --

8 THE COURT: Well, I'm not going to get into that  
9 issue. The question here is whether or not the further  
10 questioning can be had if the witness said he doesn't have  
11 any information about that or is not knowledgeable about the  
12 K9 activity.

13 MR. BILLS: Well, it's important for the Court to  
14 consider because they quoted what the dog did. They  
15 presented one witness, and I'm trying to ascertain what he  
16 saw.

17 THE COURT: You can ask whether he saw what the dog  
18 did.

19 MR. BILLS: He doesn't have to be the handler if he  
20 can see what the handler did.

21 THE COURT: He can testify to what he saw.

22 BY MR. BILLS:

23 Q. Did you see the dog go around the car?

24 A. Yes.

25 Q. All right. And is this a young dog?

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1 A. I have no knowledge.

2 Q. Do you know what a cue is?

3 A. I do not know what a cue is.

4 Q. Do you know what a signal is?

5 A. I do not.

6 Q. Well, if I signal you to go down off the stand, that's  
7 a signal for you to go --

8 MS. SILINSKI: Your Honor, the question has been  
9 asked. The witness has said he does not know. He is not a  
10 K9 handler. The K9 handler could have been called by defense  
11 counsel if there was an issue related to suppression. I  
12 would remind defense counsel that that issue was not raised  
13 in their suppression motion.

14 MR. BILLS: It is.

15 MS. SILINSKI: And defense counsel did not  
16 incorporate by reference any of the arguments that were made  
17 by Mr. Clark. Mr. Clark's attorney and Mr. Clark's attorney  
18 alone is the individual who raised the issue as to Atlas.

19 So if we need to continue today's hearing so that  
20 defense counsel can call any witnesses, so be it. But I will  
21 also say that Mr. Suggs' attorney has had ample  
22 opportunity -- we have delayed this multiple times -- to be  
23 prepared for today's hearing to call the witnesses that they  
24 believe are necessary for the issue of suppression.

25 At this point we're far outside of the scope of

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1 this witness's knowledge as it pertains to the issues at hand  
2 raised by Mr. Suggs in the suppression --

3 THE COURT: If the witness does not know what a  
4 signal is in the context of a K9, then you have to move on.

5 MR. BILLS: Well, it's part of the search warrant.  
6 So therefore, the surrounding circumstances of that you're  
7 going to be asked to take into consideration as a factor,  
8 Your Honor. And I'm suggesting that I should be able to do  
9 as much with this witness as I can.

10 THE COURT: But if the witness doesn't have any  
11 information, it's not helpful to you --

12 MR. BILLS: But he watched it.

13 THE COURT: He watch it, but you're asking him if  
14 he knew what a signal was in the context of a K9 search --

15 MR. BILLS: I understand.

16 THE COURT: And he said he did not know what that  
17 meant.

18 MR. BILLS: Okay. I'll move on.

19 BY MR. BILLS:

20 Q. Do you know whether or not or have you ever seen  
21 whether the handler had a body cam on?

22 A. No.

23 Q. You didn't? Or you didn't see it?

24 A. I don't believe he had a body camera on.

25 Q. All right. Do you know whether or not where the



1 vehicle was parked, whether he had a dash cam on recording  
2 his traversing of the car?

3 A. No.

4 Q. No, what?

5 A. He did not have a camera on. The vehicles were at  
6 Swissvale Police Department.

7 Q. Okay. And when you first looked inside the Subaru,  
8 where was that? Where was it the first time you looked  
9 inside?

10 A. On Grant Street.

11 Q. Did you see anything in it?

12 A. Yes.

13 Q. What?

14 A. The money on the rear passenger floor.

15 Q. Okay. Now, you know -- or had no information that  
16 Mr. Suggs was actually connected to Mr. Clark, no specific  
17 articulable facts?

18 A. Other than what the CI had informed us, that it was  
19 Clark's cousin.

20 Q. Well, but he didn't say that he was going to be there?

21 A. The CI did not, no.

22 MR. BILLS: Very good. May I have a moment?

23 (Brief pause.)

24 MR. BILLS: Your Honor, I have no further questions  
25 on the suppression on the warrantless part. We'll move on,

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1 and Mr. Sarna will deal with the Franks issue.

2 THE COURT: Okay. Miss Silinski, do you have any  
3 follow-up?

4 MS. SILINSKI: Yes, Your Honor. Just a brief  
5 follow-up as it relates to the questions.

6 REDIRECT EXAMINATION

7 BY MS. SILINSKI:

8 Q. Detective Hetherington, just to make clear, was  
9 Detective Bonacci present with you while you were conducting  
10 surveillance of the Grant Street location?

11 A. He was in the area. He wasn't --

12 Q. So my question specifically is was he present with you  
13 while you were tasked with --

14 A. No, ma'am.

15 Q. -- conducting surveillance on the vehicles?

16 A. No, ma'am.

17 Q. Okay. Did Detective Bonacci come to the location  
18 after you had advised law enforcement that the vehicles had  
19 arrived?

20 A. Yes, ma'am.

21 Q. And he was involved in the actual arrest; correct?

22 A. Yes, ma'am.

23 Q. But as it relates to the observations that you made,  
24 you made those observations based upon what you observed as  
25 it relates to the seizure of the vehicle as well as the

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1 seizure of the persons of Mr. Suggs and Mr. Clark?

2 A. Yes, ma'am.

3 Q. Now, I think there was some confusion as it relates to  
4 the telephone calls that were placed. So just to clarify, is  
5 it accurate to say that there was a telephone call that was  
6 initially made outside of your presence where Mr. Clark  
7 agreed to come to Pittsburgh to conduct a controlled  
8 purchase -- to sell the confidential source five kilograms of  
9 cocaine?

10 A. Correct.

11 Q. And you were not a part of that particular  
12 conversation?

13 A. I was not.

14 Q. But were you advised by law enforcement at a time  
15 before February 25, 2019, that this may occur?

16 A. Yes.

17 Q. And by this, the drug transaction that you had been  
18 informed in October of 2018, could potentially occur?

19 A. Correct.

20 Q. On February 25, 2019, were you a part of, did you  
21 overhear one or more of the calls that were conducted between  
22 the confidential source and Mr. Clark related to the where  
23 and when the drug transaction would occur?

24 A. Yes.

25 Q. And based upon that call, did you understand that the

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1 drug transaction was to occur on Grant Street in the  
2 Braddock-North Braddock area?

3 A. Yes, ma'am.

4 Q. And after those calls occurred, is that when you then  
5 were tasked with setting up on surveillance at the location  
6 where the deal was to occur?

7 A. Yes, ma'am.

8 Q. Now, based upon your training and experience as it  
9 relates to the observations that you made -- actually strike  
10 that. I'm sorry. You were asked about -- no. Strike that  
11 again. I'm sorry.

12 MS. SILINSKI: Your Honor, actually that's the only  
13 points of clarification that I have for this witness.

14 RECROSS-EXAMINATION

15 BY MR. BILLS:

16 Q. When you say you overheard a phone call from the  
17 confidential informant to Clark, how did you overhear it?

18 A. Speaker phone.

19 Q. And there was a confidential informant on one side,  
20 Clark on the other, and you were in the room, and who else  
21 was in the room overhearing this?

22 A. I believe Bonacci, Kucic, Keenan. There may have been  
23 a couple troopers there that I don't recall their names.

24 Q. So it was multiple overhears, but one call?

25 A. Yes, sir.

1 Q. Is that correct?

2 A. Yes, sir.

3 Q. And were you present for any of the other calls that  
4 were made from the CI to Clark?

5 A. No.

6 Q. But you were advised of what the conversations were?  
7 Am I correct?

8 A. Nothing more than where the transaction was to take  
9 place, and then that's where I went.

10 MR. BILLS: Very good. Thank you.

11 MS. SILINSKI: Nothing further, Your Honor.

12 MR. BILLS: I have nothing further on that issue.

13 THE COURT: Thank you.

14 THE WITNESS: Thank you, ma'am.

15 THE COURT: Are the exhibits that were attached to  
16 the various motions, are any of those part of this record?

17 MS. SILINSKI: Your Honor, I was going to move  
18 Exhibits A, B and C, which were attached to the Government's  
19 motion and I believe referenced both by defense -- prior  
20 defense counsel as well into evidence at this time.

21 THE COURT: Is there any objection to those  
22 exhibits?

23 MR. BILLS: No.

24 THE COURT: Okay. They are admitted. Does the  
25 Government have any further evidence that you wish to call?

1 MS. SILINSKI: No, Your Honor. That concludes the  
2 Government's evidence as it relates to the suppression issue.

3 And I have no intention of calling another witness  
4 as it relates to the Franks issue on the basis that defense  
5 counsel has not yet shown a substantial basis as to the need  
6 for a Franks hearing. The factors the Court's reiterated  
7 were stated in conclusory fashion without any additional  
8 supporting evidence as to what omissions. So at this time  
9 the burden rests on defense counsel to advise the Court as to  
10 why a Franks hearing is warranted in this case.

11 THE COURT: Mr. Bills, the Government has rested  
12 its case. Did you have any evidence on behalf of the defense  
13 that you wish to present? The Government has finished its  
14 case, has rested, and the question is does the defense wish  
15 to offer any evidence at this time?

16 MR. BILLS: No. We rest on that part. And  
17 Mr. Sarna is going to do the other part, however he wants to  
18 handle it.

19 MR. SARNA: Judge, if the Court is not inclined to  
20 grant the Franks in light of the testimony that was heard  
21 today as well as the material that went in the motion, I  
22 would be able to question Detective Hetherington specific to  
23 those issues.

24 THE COURT: Well, the question really is the  
25 information that I believe you wish to add was the omissions.

1 I think there were two omissions you presented?

2 MR. SARNA: Correct.

3 THE COURT: And so the question for you to argue  
4 is, if those are added, let's just assume the truth of those  
5 statements; okay? So if those are added to the affidavit,  
6 does it make a difference for probable cause? Really that's  
7 the question before the Court at this time.

8 MR. SARNA: Oh, yes, Your Honor. I do understand  
9 that. What I wasn't sure about is previous -- prior to us  
10 starting this morning, you indicated that you did not want to  
11 hear conclusory arguments, that we would be briefing those  
12 arguments. So I didn't know if the Court would prefer that  
13 that part of --

14 THE COURT: Well, there's no evidence at this  
15 stage, you know, other than if you want to rest on your  
16 briefing, that's fine, and I could make a determination.  
17 There's nothing further unless you wanted to make some brief  
18 argument at this time about what would form the basis for  
19 your argument that those omissions were material.

20 MR. SARNA: No, Your Honor. They're contained  
21 within the briefs. I think essentially we're just --

22 THE COURT: Do you want to just rely on the  
23 briefing for that?

24 MR. SARNA: Yes.

25 THE COURT: Okay. And would you also like file --

1 MS. SILINSKI: Yes, Your Honor. I mean I would be  
2 glad to brief in response on that issue. But if defense  
3 counsel is going to rely on the brief that was submitted, I  
4 think that's sufficient.

5 THE COURT: So you want to file a response?

6 MS. SILINSKI: Yes, Your Honor. As to the issue of  
7 a Franks hearing --

8 THE COURT: Yes. That would be the supplemental --

9 MS. SILINSKI: Correct. Correct.

10 THE COURT: I'll permit the supplemental to be  
11 filed. And then when will you have your response?

12 MS. SILINSKI: Your Honor, as it relates to --

13 THE COURT: The Franks --

14 MS. SILINSKI: -- the Franks issue?

15 THE COURT: -- just the supplemental --

16 MS. SILINSKI: Within seven days.

17 THE COURT: Okay. Very well. I'll expect your  
18 response brief within seven days. Now, I'll order the  
19 transcript. It's not very long. So it should be ready in  
20 the not too distant future. How much time after you receive  
21 that do you want to file your proposed findings of fact and  
22 conclusions of law?

23 MR. BILLS: Ten days.

24 THE COURT: Ten days afterwards?

25 MS. SILINSKI: That's fine, Your Honor.



1 THE COURT: So what I'm going to do is order the  
2 costs of the transcript at the joint cost of the parties.  
3 Once the transcript is received, communicate with each other  
4 so you both know the dates. And whoever is the last one to  
5 receive it, then that will be the date that we start the  
6 timeframe. And then you'll have ten days from that date to  
7 file the proposed findings of fact and conclusions of law.  
8 If it lands on a weekend, you'll have until the next business  
9 day.

10 MS. SILINSKI: Yes, Your Honor. Would the Court  
11 like us to go ahead and confirm with your Clerk the date that  
12 we anticipate filing it based upon receipt?

13 THE COURT: Well, it would be ten days -- just file  
14 a notice once you receive the transcript. That way it will  
15 be on the docket, and then we'll be able to count the days  
16 from then. You have to meet and confer --

17 MS. SILINSKI: Yes, exactly.

18 THE COURT: So everybody is clear, so there's no  
19 misunderstanding.

20 MS. SILINSKI: Correct.

21 THE COURT: Mr. Bills, do you understand that?

22 MR. SARNA: Yes, Your Honor. We understand that.

23 THE COURT: Okay. So once you receive it, meet and  
24 confer with the other side. And then file the joint notice  
25 of the date it was received, whoever is the last one to

1 receive it, and then it will be ten days from that. As I  
2 said, if it falls on a weekend, you'll have until the next  
3 business day --

4 MS. SILINSKI: At this point, Your Honor, is the  
5 Court closing the evidentiary hearing as it relates to the  
6 suppression issue?

7 THE COURT: I believe so. Mr. Bills is talking to  
8 his client, so he didn't hear what you said.

9 MR. SARNA: Judge, we'd be okay with closing the  
10 evidence now if the Court would make part of the record the  
11 exhibits that were in our motion, the transcript from the  
12 preliminary hearing and the previous --

13 THE COURT: You want to move those into evidence?

14 MR. SARNA: Yes, Your Honor.

15 THE COURT: Okay. And what are they specifically?

16 MR. SARNA: The transcript from the preliminary  
17 hearing --

18 THE COURT: Yes.

19 MR. SARNA: -- and the transcript from the  
20 detention hearing in this matter.

21 THE COURT: And what are those exhibits? Do you  
22 want to say those are --

23 MR. SARNA: We'll say those are Defense 1 --

24 THE COURT: Defense 1 and Defense 2?

25 MR. SARNA: Yes, Your Honor.

1 THE COURT: Any objection?

2 MS. SILINSKI: No, Your Honor. Those exhibits are  
3 fine.

4 THE COURT: So they will be admitted. We have a  
5 Document 60-1, which is the transcript of the hearing held on  
6 March 5, 2019, before Phyllis M. Machel. It was filed by a  
7 court reporter, and it was for the hearing before Magisterial  
8 District Judge Thomas Miller. But we don't have the  
9 detention hearing.

10 MR. BILLS: I have the detention hearing.

11 MS. SILINSKI: Your Honor, I would obviously just  
12 with the caveat of both of those hearings were held for very  
13 different reasons than the reason why we're here today for  
14 the suppression --

15 THE COURT: But if there's some statement in there,  
16 they want to --

17 MS. SILINSKI: Sure. Sure.

18 THE COURT: Or if you want to use something --

19 MS. SILINSKI: Sure.

20 THE COURT: Evidence can be used by either party.

21 MR. BILLS: There was nothing at the detention  
22 pertaining to the issues --

23 THE COURT: I'm sorry?

24 MR. BILLS: There was nothing in the detention  
25 hearings that pertained to either of the issues today before

1 the Court.

2 THE COURT: So the only exhibit would be Defense  
3 Exhibit 1?

4 MR. BILLS: Okay. Go ahead.

5 MR. SARNA: Your Honor, I could either file it or  
6 provide it to the Court, but I do have the transcript from  
7 the detention hearing, and it may be needed. I don't want to  
8 fail to include it today and then find out that we do need it  
9 when we're --

10 THE COURT: Okay. So if you could just submit it  
11 to my clerk as Defense Exhibit 2.

12 MR. SARNA: Certainly.

13 THE COURT: Okay. And do you have a copy, Ms.  
14 Silinski?

15 MS. SILINSKI: Yes, Your Honor. I do.

16 THE COURT: So it will be admitted. And is there  
17 anything else that would need to be included?

18 MS. SILINSKI: Your Honor, I believe we have  
19 covered the exhibits that were attached to the Government's,  
20 and now defense has indicated on --

21 THE COURT: You're not objecting to either of those  
22 exhibits?

23 MS. SILINSKI: No, Your Honor. Obviously we'll  
24 make arguments as it relates to both, but it is --

25 THE COURT: I believe the detention hearings where

1 before this Court in any event.

2 MS. SILINSKI: Yes, Your Honor. The detention  
3 hearing was before Magistrate Judge Eddy, I believe.

4 THE COURT: Anything further?

5 MR. BILLS: No.

6 THE COURT: Okay. Then this hearing is concluded.  
7 And we'll wait for the transcript to be produced. And then  
8 the Court will receive the proposed findings of fact and  
9 conclusions of law.

10 But before we leave, there's just one thing I want  
11 to clarify so there's an even playing field here for the  
12 simultaneous filings.

13 The Government exception to the warrantless seizure  
14 for the car, there were two exceptions that I referenced.  
15 Which ones are the Government going to rely on?

16 MS. SILINSKI: The Government I believe stated in  
17 its -- let me look in my -- that would be the same as stated,  
18 Your Honor, in the Government's response.

19 THE COURT: You had the community caretaking issue?

20 MS. SILINSKI: Yes, Your Honor. That along with --  
21 we would also include then the automobile exception and the  
22 search incident to -- as well as the inventory search  
23 initially of the vehicle.

24 THE COURT: Uh-huh. So it's the automobile  
25 exception, the inventory that would be done upon the towing,

1 and then the third one would be the community caretaking.

2 MS. SILINSKI: Yes, Your Honor.

3 THE COURT: So there's three issues. Mr. Bills,  
4 did you understand that?

5 MR. SARNA: Judge, I thought I heard that there was  
6 also the search incident to arrest.

7 THE COURT: That's what I said at the beginning.  
8 Is that one --

9 MS. SILINSKI: Yes, Your Honor.

10 THE COURT: So there's four, just so everybody is  
11 clear what the Government was going to be looking at in terms  
12 of exceptions.

13 MR. SARNA: Yes, Your Honor.

14 THE COURT: Okay. Anything further?

15 MS. SILINSKI: No, Your Honor.

16 THE COURT: This hearing is adjourned.

17 (Proceedings were concluded at 12:36 p.m.)

18 - - -

19 C E R T I F I C A T E

20

21 I, Deborah Rowe, certify that the foregoing is  
22 a correct transcript from the record of proceedings in the  
23 above-titled matter.

24

25 S/Deborah Rowe \_\_\_\_\_  
Certified Realtime Reporter